



**COMPLIANCE
WITH SUNSHINE LAW REQUIREMENTS
STATE AGENCIES, BOARDS AND COMMISSIONS**

From The Office Of State Auditor
Claire McCaskill

Forty-four percent of State Agencies, Boards and Commissions did not comply with the Sunshine Law by either not replying to requests, denying requests or replying late to requests. These entities did not have consistent policies for fees charged for providing information.

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PERFORMANCE AUDIT



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State Auditor Of Missouri
Claire McCaskill

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Inadequate Sunshine Law policies exist for more than half the state agencies, boards and commissions, which can lead to non-compliance

This audit examined how well Missouri's nearly 200 state agencies, boards and commissions comply with public records requests under Sunshine Law provisions. The audit reviewed the timeliness of processing a request; the reasonableness of denying a request and the fees charged for such requests. The following highlights the findings:

Record request fees vary widely, often more than market rate

Charges to obtain a 10-page document requiring a 15-minute search can range from free to \$20 depending on which agency handles the request. Audit tests showed that 54 percent of the entities surveyed charged more than the 10 cents per page market rate for duplicating public records. In addition, 92 percent of these entities charging over the market rate had no detailed reasons for the high charges. (See page 11)

Nearly half the entities surveyed did not comply with record requests

About 44 percent of the governmental entities surveyed either did not respond, responded untimely or improperly denied a request. Of the 9 percent that did not respond at all, many entity officials said the request never arrived even though we had a signed receipt from the mailing.

Three entities refused to provide the requested records unless the citizen explained why they want the information, which is not required by the Sunshine Law. One agency's attorney offered this reason to deny: "It will be necessary for you to be more specific as to what you need and for what purpose before we can comply..." (See page 3)

Majority of the entities responded on time

Audit tests showed that 55 percent of the entities surveyed responded within the 3-day requirement of the Sunshine Law. Of those that did not respond on time, the longest delay was 43 business days, while the majority of the other untimely responders were one to three days late. (See page 4)

Written policies do not exist or are not clear

About 65 percent of the written policies of the Sunshine Law reviewed in this audit were not clear or reasonable. About 18 percent of these entities had no written policy. About 45 percent of these entities had unclear policies that did not identify a custodian of records or state 3-day response time requirement. (See page 6)

At least three policies were not written in the "spirit" of the Sunshine Law, including Northwest Missouri State University that indicated top university officials were not "governmental bodies" and were outside the realm of the law. (See page 7)

YELLOW SHEET

**COMPLIANCE WITH SUNSHINE LAW REQUIREMENTS STATE AGENCIES,
BOARDS AND COMMISSIONS**

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CLAIRE C. McCASKILL
Missouri State Auditor

Honorable Governor Bob Holden
And
Agency Directors, Board Members and Commissioners
And
Members of the General Assembly

The State Auditor performed an audit of compliance with requests for records under Section 610.023—Missouri Sunshine Law. The purpose of the audit was to determine if state agencies, boards, and commissions were aware of their responsibilities to provide access to public records upon request; had established reasonable written policies for complying with the Sunshine Law; and had established reasonable fees for duplication of public records.

We concluded that nearly forty-four percent of the governmental entities included in our sample did not properly comply with the Sunshine Law regarding requests for records; only thirty-five percent of state agencies, boards, and commissions surveyed have reasonable written policies for complying with the Sunshine Law; and fifty-four percent of governmental entities surveyed disclosed fees charged for duplication of public records in excess of the market rate. By not responding to requests or denying requests unjustifiably, state agencies, boards, and commissions risk fines, lawsuits, and loss of credibility with their constituency.

A handwritten signature in black ink that reads "Claire McCaskill".

Claire McCaskill
State Auditor

February 20, 2001 (fieldwork completion date)

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RESULTS AND RECOMMENDATIONS

1. Forty-four Percent of State Agencies, Boards and Commissions Did Not Comply with the Sunshine Law

Eighty-six of the 194 (44%) governmental entities in the audit sample either did not respond, responded untimely, or improperly denied a request for records from the general public. When following-up with non-compliant entities, personnel, gave these reasons for not complying with Missouri's Sunshine Law:

- ✓ The request was not received.
- ✓ Information could not be located.
- ✓ The request was not given to the proper individual.
- ✓ The purpose for obtaining the records needs to be known.

When management does not appropriately respond to a request for records, the entity is subject to lawsuits, fines and loss of credibility.

Universe of State Agencies, Boards and Commissions

The Secretary of State's Office publishes a biennial *Official Manual* that includes state agencies, boards, and commissions. We obtained the names and addresses of 194 of these entities and requested a copy of the minutes from the last board meeting held in calendar year 1999 from each state board and commission and copies of purchase orders for the month of June 2000 from each state agency.

Audit Procedure and Criteria

The audit test was conducted in a manner that gave the appearance that the request was made by a private citizen. The letter was sent on plain paper and stated either,

"I request that you make available to me a copy of the minutes of the last meeting held in Calendar year 1999. Please let me know in advance of any search or copying if the fees for such search and copying will exceed \$10."

or

"Please provide to me copies of the purchase orders for the month of June 2000. Purchase orders include quick price agreement orders, service contract orders, quick decentralized purchase orders, simplified service contracts, purchases from Missouri Vocational Enterprises, non pre-encumbering requisitions, and quick requisitions. Please let me know in advance of any search or copying if the fees for such search and copying will exceed \$10."

State law includes specific provisions that governmental entities, with some exceptions, must follow when handling requests for records. Section 610.023(3), RSMo2000, states:

“Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request was received by the custodian of records of a public governmental body. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three days for reasonable cause.”

Governmental entities did not respond to the request

Eighteen of the 194 (9%) governmental entities did not respond to the request for records. When a follow-up call was made to the appropriate individuals, many claimed that the request was not received or that the request did not get to the appropriate respondent. One individual said she could not offer an explanation.

Since we mailed all requests by certified mail, we know each entity signed for and received the request for minutes or purchase orders. Some state personnel indicated that the request was not forwarded to the appropriate individual within the entity. However, the fact that internal mail distribution procedures were the cause for non-compliance does not relieve the entity of its responsibility to comply with state law. In these instances, it would be beneficial for the entity to make it clear to those who open agency mail who the custodian of records is and provide instructions for ensuring that requests are routed and answered timely.

Better internal mail-handling procedures are needed

Three governmental entities denied requests for information

Three of the 194 (1%) entities refused to provide the requested records unless the citizen provided more information. While the number of refusals represents a small percentage of the total universe tested, it substantiates the need for the entities' personnel to become familiar with the laws that regulate requests for public records. The following examples illustrate the lack of familiarity with the Sunshine Law:

Requests were denied for inappropriate reasons

A superintendent of a state school replied¹:

“Thank you for your request for information about our purchase orders for the month of June 2000. Although our agency is a public agency and we would be happy to provide public records, we would like to know your interest in requesting this information.”

¹ The superintendent later mailed the requested information.

A member of the legal staff at one state agency provided this response for two different divisions:

“It will be necessary for you to be more specific as to what you need and for what purpose before we can comply with your request.”

Both of these denials indicate that the requestor must identify the purpose for the request. The statutes do not require the requestors to identify why they want the information.

More than one-half of governmental entities replied timely to request for records

Audit tests concluded that 108 out of 194 (55%) governmental entities responded within the timeframe set by state law. The remaining 58 (29%) entities that have not already been identified as non-compliant, did not respond in a timely manner.

58 of 194
entities did not
respond timely

Number of Entities	Days Late
41	1-3
9	4-6
4	7-10
4	more than 10

To fairly determine governmental entities' response times, we began our count with the day after the certified mail was delivered to the governmental entity and ended with the postmark date on the return envelope; we did not include weekends and holidays. The most significant delay in response was 43 business days.

Conclusions

Management at nearly 44 percent of State Agencies, Boards and Commissions are subjecting the entities to lawsuits, fines, and loss of public confidence because they have not complied with the law. Open records laws provide the proper checks and balances needed in government to ensure the public is aware of government operations.

Recommendation

We recommend the Governor

- 1.1 Ensure that appropriate responsible personnel at State Agencies, Boards and Commissions are designated as custodians of records. These personnel should be familiar with the provisions of the Sunshine Law. In addition, there should be proper procedures in place to ensure requests for records are routed to the appropriate personnel for processing in a timely manner and in accordance with state law.

2. State Agencies, Boards and Commissions Need to Establish or Improve Written Policies for Complying with the Sunshine Law

The quality of policies received from State Agencies, Boards and Commissions (governmental entities) regarding compliance with the Sunshine Law could be improved and would provide better compliance.

- ✓ Only 48 of 137 governmental entities' policies referenced the naming of a custodian of records and the 3-business day response requirement imposed by the law. These two elements were deemed essential in determining whether or not a written policy was reasonable.
- ✓ 74 of 137 governmental entities' policies contained fee requirements for copying records in excess of 10 cents per page (approximate market value). Sixty-eight of these governmental entities did not provide an explanation of how the fee was determined. In some cases we were able to determine that employee time spent searching for the document was included in the per page fee, but in other cases we were unable to determine if the employee time was part of the per page fee.

Governmental entities without reasonable policies increase the risk of improper handling of public document requests that could result in violation of the law. According to law, governmental entities cannot charge fees in excess of actual costs and fees must be fair and reasonable. If governmental entities do not identify how they determined the fees, the public cannot be assured that the fees charged are fair, reasonable, or representative of actual costs.

Background

Pursuant to Section 610.026(2), RSMo, fees charged for document search and duplication must be fair, reasonable, and cannot exceed the actual cost incurred by the governmental entity. Audit tests were designed to determine how the 137 governmental entities determined the cost of document reproduction. We sent the following request letter:

“We are currently performing a statewide review of the Sunshine Law. Please provide us with a copy of your policies and procedures regarding providing information to the public. In addition, please identify any charges for providing copies and documentation to support the establishment of these charges.”

This test was conducted as a means to review if the governmental entity had a reasonable written policy regarding compliance with Section 610.028(2), RSMo. The survey also was used to review the policies and procedures governmental entities followed in charging fees for public document requests. *(See Appendix I, page 16, for methodology used in review of written policies and fees).*

Written policies either did not exist or were not clear

Approximately 65 percent (89 out of 137) of governmental entities in the state of Missouri did not have reasonable written policies related to compliance with the Sunshine Law. One governmental entity in a response letter stated that it did not maintain a formal written policy. Five governmental entities responded to our inquiry by writing a policy on letterhead paper dated as of the day of the response. In a follow-up call to these governmental entities, all five indicated they did not maintain formal written policies, but said they did follow the law as indicated in the letter.

Many of the governmental entities had some type of written policy, but the policy was not clear because it did not

- indicate that a custodian of records had been named, and
- provide notice that the custodian of records has to respond to such requests within 3 business days following receipt of the request.

Classification of Written Policies

Classification	# of Entities	Percentage Of All 137 Respondents
Reasonable Written Policy	48	35%
Policy Was Not Clear	63	46%
No Written Policy	23	17%
Policy Did Not Meet the Spirit of the Law	3	2%

Policies did not clearly assign responsibility

Of the 137 governmental entities surveyed, 63 had written policies that were not clear. We considered the policy unclear if it did not identify the custodian of records, either by name or organizational position, and/or it did not state that responses had to be made within 3 business days.

Who is responsible for answering the request?

A clear written policy is essential to ensure that there is no misunderstanding within the organization as to how to process a Sunshine Law request.

Additionally, public dissemination of the written policy would give the general public notice of the custodian of records for the governmental entity and how the requestor of public documents can expect the governmental entity to respond, which would allow for a more efficient process. To comply with the law a governmental entity must have its reasonable written policy “open to public inspection.” One way to do this would be for the governmental entity to include the policy in its regulations, which the general public could access. Additionally, if the

governmental entity has an official website the policy could be prominently displayed on the homepage.

Some policies included provisions that did not meet the spirit of the Sunshine Law

Three policies contained language or requirements that make it difficult for a requestor to obtain records. While we do not conclude that this language is in violation of the law, we believe the policies are not conducive to the “spirit” of the law that requires open government without intimidation of the person making the request. The following language or requirements could cause concern for the requestor:

Northwest Missouri State University

This public university included the following language in their policy:

“The president of the University, vice presidents and other members of the president’s cabinet are not ‘governmental bodies’ within the contemplation of the Sunshine Law, and thus are outside the ambit (realm)¹ of the law...”

This provision in the university’s policy appears to be contrary to current law. The provision contends the president of the university and his cabinet are not a “governmental body” and therefore are not subject to the Sunshine Law. The university cites Tribune Publishing Company v. Curators of the University of Missouri, 661 S.W. 2d. 557 (Mo. App. WD 1983) as authority for this provision in its policy. Subsequent to the Tribune decision the legislature amended the law to include all “administrative entities” in its definition of governmental body. The president, vice presidents and other members of the president’s cabinet would seem to constitute an administrative entity. This and other amendments to the law resulted in one court stating that “Tribune is no longer the law in Missouri”. Bauer v. Kincaid, et al., 759 F.Supp. 575 (US Dist Ct, W.D. 1991). In light of the statutory amendments and court cases subsequent to Tribune, the university should revise its policy to conform with current law.

Southwest Missouri State University

The public university stated in its policy the following:

“Requestor shall submit a ‘Request for Document’ form, signed by the Requestor, identifying the organization, if any, which he/she represents.”

Requiring a requestor of public documentation to identify the organization he/she represents is not in harmony with the meaning of “open” government. A requestor could be intimidated from proceeding with a request because of this requirement and unnecessarily cause the requestor to question the motive of the agency for asking the question.

¹ Synonym added.

Missouri Development Finance Board

This board's response to our request for policies and procedures summarized its policy in a letter and stated that a custodian of records must respond within 3 days of the request, which is appropriate, however the board then stated the following:

“...but the response can be a statement that the information is not public and will not become public until presented to and heard by the Board in an open meeting.”

If the board were to deny a request for a document its response should include the reason for the denial and cite the provision of the law under which access was denied. Although, this may be what this board would do if it were to deny a Sunshine Law request, the language in the quote above gives the impression that a simple statement, such as “the information is not public” would be sufficient for denial of the request. This would not be a proper response for a denial and would be contrary to the law.

One third of the entities had reasonable written policies

Out of the 137 governmental entities surveyed, 48 had written policies that included the language stating a custodian of records had been named and the law requires the custodian of records to respond to requests for access to public records within a statutorily imposed time period.

Some policies ensured timely response to requestors

Among the 48 reasonably written policies there were varying degrees of specifics in the language referring to the designation of a custodian of records and the 3-business day response requirement. Some of the more detailed policies explicitly stated the name or office of the custodian of records and the 3-business day response requirement, while other less detailed policies stated that a custodian of records had been chosen and responses to public requests should be within the time allowed by law.

The Department of Labor and Industrial Relations (DOLIR) had an exemplary policy on open records. The policy was clear, concise, and it communicated the spirit and the letter of the Missouri Sunshine Law. Key sections of the policy are as follows:

Exemplary policy found at one Department

Official Custodian

- This section of the policy specifically states, “the Director of each division or agency within DOLIR, is the official custodian of records under his or her jurisdiction.”

Processing Requests

- This section of the policy states “the person primarily responsible for reviewing incoming mail” should forward requests to the confidential information coordinator

immediately upon receipt and that “each request received pursuant to section 610.023 RSMo must be processed within 3 working days of receipt.”

- If copies are requested, “fees charged cannot exceed the actual cost of the document search and duplication.”

Another feature of the Department of Labor and Industrial Relations’ policy is a one-page summary, which contains a list of appropriate responses to requests. The responses deemed appropriate by the agency are as follows:

- A. *Production of the documents with a bill for copying charges.*
- B. *A letter informing the party of the copying charge and requiring payment before the documents will be copied.*
- C. *A letter indicating that documents are available for inspection at a specified place during normal business hours.*
- D. *A letter indicating that the records cannot be produced within the 3 business days and stating when the records will be available.*
- E. *A letter stating that the requested documents are not open records and are not available to the public. If requested, the agency may have to cite the specific provision of the law under which access is denied.*

Detailed written policies can be beneficial and should be distributed to all staff with emphasis on the importance of the policy. Although the Department of Labor and Industrial Relations had a good policy, the Division of Employment Security within the Department did not respond to our request for a copy of a public record. In a follow-up call to ascertain why the Division did not comply with our Sunshine Law request, the Division’s general counsel could not give an explanation.

A majority of non-compliant entities did not have a reasonable written policy

Thirty-six of 59 (61%) of the governmental entities that did not comply with the audit test’s request for records did not have a reasonable written policy. Absent a definition of reasonable in the statutes it would not be incorrect to expect a written policy to (i) give general information about the Sunshine Law, (ii) expressly state that a custodian of records has been appointed for handling Sunshine Law requests, and (iii) expressly state that the custodian of records has to respond to such requests within 3 business days following receipt of the request. A policy that explicitly addresses these points would give both the requestor and the internal staff of the public governmental entity the information needed to comply with the Sunshine Law.

Lack of policy
can lead to
lack of
compliance

While we did not perform a statistical analysis to test the correlation between the two variables (i.e., compliance with Sunshine Law requests, and having a reasonable written policy), it would

be reasonable to expect that some of the entities failing to comply with the Sunshine Law would have complied if they had reasonable written policies. Furthermore, a reasonable written policy is required by state statute and all governmental entities should comply with the law.

There was inconsistency among governmental entities regarding charges for searching and copying documents

Fifty-four percent (74 out of 137) of the governmental entities surveyed charged more than 10 cents per page for duplication of public records. Twenty-three of the entities charged between 3 and 10 cents per page. Five of the entities surveyed said they do not charge for Sunshine Law requests, and another 31 entities either did not provide fees or stated that fees charged would be fair, reasonable, and would be no higher than the actual cost of providing the documents to the requestor. Four of the entities set a limit on the number of free pages that would be provided before assessing fees for additional pages.

Breakdown of Governmental Entities' Duplication Fees

Fee Charged Per Page	# of Entities	Percent of Total
≥ \$1.00	10 ²	7%
From \$0.25 to \$0.50	52	38%
From \$0.15 to \$0.20	12	9%
≤ \$0.10	23	17%
No charge	5	3%
Fee Not Provided	31	23%
Limited Fee	4	3%
Total Surveyed	137	100%

Audit tests showed that fees ranged from a low of 3 cents per page to a high of \$1.00 per page. One entity charged a minimum of \$5.00 and then 5 cents per page. Other entities indicated they would not charge a fee as long as the request was not “voluminous” or “more than one or two pages.”

Copying fees were not explained

While 74 of the entities charged more than market rate, 68, or 92 percent, of these entities did not provide a detailed explanation of how the fees were derived. One Division provided a formula it used for deriving the fees it charged per page for photocopies. The formula included, personnel cost, postage and paper/copy machine costs to derive a fee of 50 cents per page. (See Appendix XI, page 36, fee justification example 1). A Commission in its response letter stated that it calculated the cost by taking the labor cost per hour divided by the

Entities did not explain how they calculated fees

² Eight of the 10 entities have minimum charges ranging from \$1.00 to \$5.00, but then charge less per page. Two of the entities charge a flat \$1.00 per page.

number of copies made per hour and then added the cost of paper and copy machine usage to derive a fee of 4 cents per page. (See Appendix XI, page 37, fee justification example 2).

While there is a substantial difference between these two estimated costs, the difference could be explained by postage and the document search cost. The 4-cent fee per page does not include any cost for postage or document search, although both are waived if the total cost is less than \$5.00. It is unclear whether the entity charging 50 cents per page would also charge a fee for document search.

Document search costs were not explained

Audit tests showed that 74 of 137 governmental entities (54%) listed a document search fee based on personnel time used for the search. All fees were based on an hourly rate and ranged from a high of \$35.00 per hour to a low of \$8.00 per hour for personnel time. Additionally, many entities said the document search fee would be waived if the search did not take a long period of time defined as anywhere from 15 minutes to 2 hours for one governmental entity. In at least one case, there was a minimum charge per request of “one-half” the per hour fee for personnel time, regardless of how long the search took.

Search fees
could be high
or low—
agencies differ

Over one-half of the entities listing fees for document search had a different hourly rate depending on whether a “clerk” performed the search or a “professional” performed the search. In most cases, the hourly rate for a professional search was approximately double the cost of a clerk search. The other one-half of the entities listing fees charged one hourly rate and did not distinguish between a clerk or professional search.

Hourly Charges For Document Search

Fee Per Hour ³ (Range)	# of Entities	Percent of Total
\$35.00	4	5%
\$21.00 - \$29.00	1	1%
\$11.00 - \$20.00	24	33%
\$8.00 - \$10.00	45	61%
Total:	74	100%

Examples of excessive fees

It is understandable that a governmental entity would want to recover its costs of responding to a Sunshine Law request and the law clearly allows for a governmental entity to charge a fee for its actual costs of document duplication and search. This provision in the law would seem to be

³ The range of fees per hour is based on a “clerk” hourly rate or a rate where the government entity only gave one rate and did not distinguish between a clerk and a professional document search. Where a professional fee was given the hourly charges ranged from \$15 - \$25, however this is not reflected in the table.

premised on the theory that all taxpayers should not have to subsidize the requests of individual taxpayers. However, open government requires that public information not be made so costly as to, in effect, create a closed government. The spirit of the Sunshine Law would seem to demand that governmental entities err on the side of undercharging for requests of public information. In spite of this, some governmental entities appear to be overcharging for public document requests.

Kansas City Area Transit Authority

The Kansas City Area Transportation Authority (KCATA) charges \$1.00 per page for copies of public records. This fee is excessive in light of the \$0.10 per page market value for copies. KCATA justifies the cost by saying it takes a clerk thirty minutes to process, and reply, to the request. Based on a clerk salary of \$15 per hour, KCATA says the document search and process of the request costs \$7.50 (\$15 per hour x 30 minutes). KCATA then says the "\$1.00 per page charge is an attempt to partially recover KCATA's costs, while at the same time ensuring that no person is denied access to documents because of limited financial means."

KCATA appears to be rationalizing the excessive \$1.00 per page cost for copies by comparing it to the \$7.50 it costs to process the request. However, this logic only stands-up if the request is for a document of 8 pages or less. What if the request was for a 50 page document? For about the same amount of time (maybe a few minutes longer at the copier) a clerk could process the request at a cost of \$7.50, but the requestor would have to pay the authority \$50. This would be a violation of the Sunshine Law as the fee charged for document duplication and search is higher than the cost incurred by the governmental body

Missouri Department of Conservation

The Missouri Department of Conservation (Conservation) charges a flat \$10 fee per request and \$1.00 per page for copies. According to Conservation, the \$10 fee is to cover the cost of processing the request and the \$1.00 per page is to cover the costs of processing the request and copy expenses. Since the agency did not have any documentation to justify the fees it is not possible to determine exactly how the \$10 flat fee and the \$1.00 per page fee were derived. In an attempt to justify the \$1.00 per page duplication fee the agency said that often the cost of the request exceeds \$10 and therefore the \$1.00 per page is justified. However, the agency also said that if a document search was longer than one hour then the \$10 would be assessed on an hourly basis. This would seem to nullify the justification of the \$1.00 per page fee. Without better justification of the \$1.00 per page copy charge it is possible Conservation is in violation of the law because its fee charged for document duplication exceeds the cost incurred by the agency.

Conservation also charges a minimum of \$60 for up to three hours of research on proprietary information and fees for several databases it maintains. The database fees range from \$100 per database to \$650 per database. The databases can be obtained on a

compact disk or on a computer zip drive. When asked to justify the fees charged for the databases the agency could not produce any documentation to support the fees.

Professional Licensing Boards and Commissions

The Advisory Committee for Licensed Clinical Social Workers, the Missouri Board of Respiratory Care and State Committee of Marital and Family Therapists each listed fees of \$0.50 per page and \$35 per hour for document search. The \$0.50 is significantly above the \$0.10 market rate for copies and the \$35 per hour fee for document search was the highest of all governmental entities included in our review.

The following two tables are an example of how wide-ranging charges can be for public document requests under the Sunshine Law.

Table 1
Fee Charged For A 10-Page Public Document Requiring 15-Minute Search

Governmental Entity	Cost Per Document	Page Search	Total Fee Charged for Document
Department of Conservation (Headquarters)	\$1.00	\$10.00 flat fee	\$20.00
Missouri Board of Respiratory Care	\$0.50	\$35.00	\$13.75
KCATA	\$1.00	\$0	\$10.00
Department of Natural Resources	\$0.10	\$8.00	\$3.00
Missouri Highway Patrol	No charge	if less than 20 pages	

Table 2
Fee Charged For A 50-Page Public Document Requiring 30-Minute Search

Governmental Entity	Cost Per Document	Page Search	Total Fee Charged for Document
Department of Conservation (Headquarters)	\$1.00	\$10.00 flat fee	\$60.00
KCATA	\$1.00	\$0	\$50.00
Missouri Board of Respiratory Care	\$0.50	\$35.00	\$42.50
Department of Natural Resources	\$0.10	\$8.00	\$9.00
Missouri Highway Patrol*	\$0.15	\$0	\$7.50

* Charge of \$0.15 per page if over 20 pages.

The table above illustrates how document requests from governmental entities charging \$1.00 per page or high document search fees can become costly to the requestor as the size of the

document and the time spent on document search increases to 50 pages and 30 minutes, respectively.

Conclusions

Approximately 65 percent of the agencies, boards and commissions surveyed did not have written policies on Sunshine Law requests that we would classify as reasonable. As compliance with the Sunshine Law continues to be a problem for public governmental entities in the state of Missouri it is critical that each entity have a reasonable written policy that provides adequate information to both internal staff of the public entity and to the general public.

The Sunshine Law allows governmental entities to recoup the cost of document search and duplication. Section 610.026, RSMo says a governmental entity, upon request, must certify in writing that the actual cost of document search is fair, reasonable, and does not exceed the actual cost incurred by the public governmental entity. Approximately 54 percent of governmental entities surveyed charged duplication fees that, on their face, exceeded what would be considered a market rate.

Some governmental entities have fee structures that appear excessive when compared to the fee structures of other governmental entities. A Sunshine Law request for a 50 page document that takes 30 minutes to find could cost the requestor anywhere from \$60.00 to \$7.50 depending on which governmental entity has the document.

Recommendations

We recommend that the Governor ensure:

- 2.1 All governmental entities have a reasonable written policy pertaining to the Sunshine Law.
- 2.2 The reasonable written policy is distributed to all staff and be obtainable by the general public.
- 2.3 All written policies have, at a minimum, the name or office of the custodian of records and explicit reference to the statutorily imposed 3-business day timeframe the custodian of records has to respond.
- 2.4 Policies have detailed instructions on how to process a request so every employee within a governmental entity will have knowledge of the procedures necessary to comply with the law.
- 2.5 All government entities provide written documentation supporting the fees it charges for document search and duplication relating to a Sunshine Law request.
- 2.6 Fees are reasonable, fair and do not exceed the actual cost incurred by the governmental entity.

- 2.7 Governmental entities provide the costs of document search and duplication to a requestor before sending a bill, so the requestor has a chance to decide if the request is worth the cost.
- 2.8 Procedures are in place to ensure document search and duplication fees do not overlap resulting in a double charge to the requestor of the document.

OBJECTIVE, SCOPE AND METHODOLOGY

Objective

The objective of the audit was to determine if personnel at state agencies, boards, and commissions were aware of their responsibilities for responding to public requests for records. The audit measured the number of responses received as well as the timeliness of those responses. Additionally, a survey was conducted to review (state agencies' divisions, boards, and commissions) written policies regarding public requests for records.

Scope and Methodology

A total of 194 (state agencies, boards and commissions) were selected from the Secretary of State's biennial *Official Manual*, 1997-1998. Then, a letter requesting a copy of the minutes of the last meeting held in calendar year 1999 was sent to each board and commission, and a letter requesting purchase orders for the month of June 2000 was sent to each state agency. A total of 198 requests were made to the following entities:

Type of Entity	Number of Requests Mailed
State Agencies	101
State Boards and Commissions	93

We reviewed the requirements of Section 610, Missouri Revised Statutes (RSMo) and limited the scope of our audit to responses to requests for information. We made the following assumptions in this audit:

- There is no distinction between state agencies, boards and commissions as to size, mission, function, geographic location and population served regarding the responsibility to respond to requests for records.
- An entity should be considered compliant with the laws when a response is received within 3 business days, provided that either access to records is given immediately or a detailed explanation as to the earliest date the information can be released is given.
- Some requests may be delivered late in the day, so response time calculations should begin with the business day following the delivery date marked on the certified mail receipt. The response time calculation should then end with the postmark date on the respondents' envelope.

This audit was conducted in accordance with generally accepted government auditing standards and included tests of compliance that were deemed appropriate in order to accomplish the audit objectives. The audit included program results and compliance elements.

Subsequent to our review of compliance with the Sunshine Law, our office sent 137 state agencies, boards and commissions a letter requesting a copy of the entity's policies and procedures on public requests for information and we asked the entity to identify any charges for providing copies and documentation to support the establishment of these charges.

This survey was conducted as a means to review if the governmental entity had a reasonable written policy regarding compliance with the Sunshine Law as required by Section 610.028(2), RSMo. In our opinion, a reasonable written policy is one that, in addition to giving general information about the Sunshine Law, expressly states that: 1) a custodian of records has been appointed for handling Sunshine Law requests and 2) the custodian of records has to respond to such requests within three business days following receipt of the request. A policy that explicitly addresses these two points would give both the requestor and the internal staff of the public governmental entity the information needed to understand that a Sunshine Law request should be immediately forwarded to the custodian of records and the custodian has 3 days following receipt of the request to respond.

Additionally, we reviewed the fees charged for document duplication, search and/or research by each governmental entity. Pursuant to section 610.026(1), fees charged per page for copies of documents and personnel time charged for document search must be fair, reasonable and must not exceed the actual cost incurred by the governmental entity.

To make an assessment on whether a fee charged for duplication of a public record was fair, reasonable and did not exceed the actual cost of production it was necessary to determine a market rate and to make certain assumptions based on the information provided. In a survey we found that a commercial vendor charged \$0.07 per page, whether copies were made by yourself or by an employee of the commercial vendor. For the two public libraries we surveyed, one charged \$0.15 per page and the other charged \$0.10 per page. Many college and university libraries in the state charge \$0.10 per page. Based on this survey it was decided that any fee over \$0.10 per page would be considered on its face unreasonable and would need to be justified by the governmental entity charging the fee.

BACKGROUND

The State of Missouri's commitment to open government is stated in Section 610.011 Missouri Revised Statutes (RSMo). Referred to as the Sunshine Law, the intent of the law is to ensure that public governmental bodies conduct their business in a manner that is open to public scrutiny. Public meetings, including meetings conducted by telephone or other electronic means, are to be held at reasonably convenient times and must be accessible to the public. Meetings should be held in facilities that are accessible to persons with disabilities.

Section 610.010 prescribes that public governmental bodies are defined as legislative, administrative or other governmental entities created by the constitution or statutes of the State of Missouri, or by order or ordinance of any political subdivision or district as well as judicial entities when operating in an administrative capacity. This includes state agencies and officials, governing bodies of institutions of higher education and any department of any political subdivision of the state, county or municipal government, school district, or special-purpose district, including sewer and water districts.

Section 610.023 prescribes that each public governmental body shall make that body's public records available for inspection and copying by the public. Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records of a public governmental body. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three days for reasonable cause. If a request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester no later than the end of the third business day following the date that the request for the statement is received.

Section 610.026 prescribes that fees for copying public records shall not exceed the actual cost of document search and duplication. Upon request the governmental body shall certify in writing that the actual cost of the document search and duplication is fair, reasonable and does not exceed the actual cost incurred by the public governmental body. Documents may be furnished without charge when the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester.

Section 610.027 prescribes that any aggrieved person, taxpayer to, or citizen of, this state, or the attorney general or prosecuting attorney, may seek judicial enforcement of the requirements of sections 610.010 to 610.026. Suits to enforce sections 610.010 to 610.026 shall be brought in the circuit court for the county in which the public governmental body has its principal place of business.

Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has purposely violated sections 610.010 to 610.027, the public governmental body or the member shall be subject to a civil fine in the amount of not more than five hundred dollars and the court may order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing a violation of sections 610.010 to 610.026.

Section 610.028 prescribes that each public governmental body shall provide a reasonable written policy in compliance with sections 610.010 to 610.030, open to public inspection, regarding the release of information on any meeting, record or vote and any member or employee of the public governmental body who complies with the written policy is not guilty of a violation of the provisions of sections 610.010 to 610.030 or subject to civil liability for an act arising out of his adherence to the written policy of the agency.

SCHEDULE OF NON-RESPONDENTS

The following entities did not respond to the request for records:

STATE AGENCY	AGENCY, BOARD OR COMMISSION
Office of Administration	Division of Facilities Management
Department of Corrections	Division of Human Services
Department of Economic Development	Minority Business Advocacy Commission
	Missouri Community Service Commission
	Missouri Women's Council
	Board of Examiners for Hearing Instrument Specialists
	Advisory Committee for Licensed Clinical Social Workers
Department of Labor and Industrial Relations	Division of Employment Security
Department of Natural Resources	Division of Environmental Quality
Department of Public Safety	Missouri Capitol Police
	Missouri Division of Fire Safety
	Missouri State Highway Patrol
Department of Revenue	Division of Administration
	Division of Compliance
	Division of Information Systems
	Division of Motor Vehicle and Drivers Licensing
	Division of Taxation and Collection
	Office of the Director

SCHEDULE OF DENIALS

The following entities denied the request for records until a reason was given for the request.

STATE AGENCY	AGENCY, BOARD OR COMMISSION
Department of Corrections	Division of Adult Institutions
	Division of Probation and Parole
Department of Elementary of Secondary Education	Missouri School for the Blind

SCHEDULE OF NON-COMPLIANT RESPONDENTS

The following entities are non-compliant because response times exceeded 3 business days:

STATE AGENCY	AGENCY, BOARD OR COMMISSION
Office of Administration	Division of Accounting
	Office of Information Technology*
	Division of Design and Construction
	Division of General Services
	Children's Trust Fund Board*
Department of Corrections	Board of Probation and Parole*
Department of Economic Development	Missouri Division of Tourism
	Division of Job Development and Training*
	Division of Finance*
	Office of Employment Agencies*
	Missouri Housing Development Commission
	Missouri State Savings and Loan Commission
	State Board of Barber Examiners*
	State Board of Cosmetology
	Missouri Dental Board
	State Board of Nursing
	State Board of Optometry
	State Committee of Psychologists*
	Missouri Board of Geologists Registration
	Missouri Board of Respiratory Care*
	State Committee of Marital and Family Therapists*
Department of Elementary and Secondary Education	Division of School Services*
	Division of Instruction*
	Division of Vocational and Adult Education*
	Division of Special Education*
	Division of Urban and Teacher Education*
	Division of Vocational Rehabilitation*
	Missouri School for the Blind Board of Advisors

APPENDIX V

STATE AGENCY	AGENCY, BOARD OR COMMISSION
	Missouri Commission for the Deaf
Department of Higher Education	State Historical Society of Missouri
	Missouri Coordinating Board for Higher Education*
	Kirksville College of Osteopathic Medicine*
	Lincoln University Board of Curators*
	Northwest Missouri State University*
Department of Labor and Industrial Relations	State Board of Mediation*
Department of Mental Health	Mental Health Commission*
Department of Natural Resources	Division of Energy*
	Air Conservation Commission*
	Land Reclamation Commission
	Well Installation Board*
	Solid Waste Management Program Advisory Board*
Department of Public Safety	Office of the Adjutant General*
	Division of Gaming*
	Missouri Fire and Safety Advisory Board
	Missouri Gaming Commission*
Department of Revenue	Highway Reciprocity Commission*
Department of Social Services	Division of Data Processing*
	Division of General Services*
	Division of Legal Services*
	Division of Aging*
	Division of Child Support Enforcement*
	Division of Family Services*
	Division of Medical Services*
	Division of Youth Services*
	Governor's Advisory Council on Aging*
	Division of Youth Services Advisory Board*
Department of Transportation	Division of Design
	Kansas City Area Transportation Authority Board of Commissioners*

APPENDIX V

* Entity responses were between 1 and 3 business days late. We do not consider this to be significant non-compliance.

The following entities were non-compliant because the records were not immediately available for inspection and the response did not include a detailed reason for the delay that included the soonest possible date which the records would be available:

STATE AGENCY	AGENCY, BOARD OR COMMISSION
Department of Conservation	Fisheries Division
	Wildlife Division
	Forestry Division
	Protection Division
	Design and Development Division
	Outreach and Education Division
	Administrative Services Division

SCHEDULE OF COMPLIANT RESPONDENTS

STATE AGENCY	AGENCY, BOARD OR COMMISSION
Office of Administration	Division of Budget and Planning
	Division of Personnel
	Division of Purchasing and Materials Management
	Division of Information Services
	Office of Information Technology Board
	Administrative Hearing Commission
	Board of Fund Commissioners
	Governor's Advisory Council on Physical Fitness and Health
	Health and Educational Facilities Authority
	Jackson County Sports Complex Authority, Harry S Truman Sports Complex
	Missouri Commission on Intergovernmental Cooperation
	Missouri Ethics Commission
	Missouri Head Injury Advisory Council
	Missouri State Employees' Deferred Compensation Commission
	Missouri State Employees' Voluntary Life Insurance Commission
	Personnel Advisory Board
Department of Agriculture	Animal Health Division
	Grain Inspection and Warehousing Division
	Market Development Division
	Plant Industries Division
	Weights and Measures Division
	State Milk Board
	Missouri State Fair Commission
Department of Conservation	Conservation Commission
Department of Economic Development	Division of Credit Unions
	Division of Motor Carrier and Railroad Safety
	Division of Professional Registration
	Office of Athletics
	Office of Endowed Care Cemeteries

STATE AGENCY	AGENCY, BOARD OR COMMISSION
	Missouri Development Finance Board
	Missouri Tourism Commission
	Missouri State Council on the Arts
	Missouri Public Service Commission
	Missouri State Board of Accountancy
	Missouri Board for Architects, Professional Engineers, and Land Surveyors
	State Board of Chiropractic Examiners
	Committee for Professional Counselors
	State Board of Embalmers and Funeral Directors
	State Board of Registration for the Healing Arts
	Missouri Board of Occupational Therapy
	State Board of Pharmacy
	State Board of Podiatric Medicine
	Missouri Real Estate Commission
	Missouri Real Estate Appraisers Commission
	Missouri Veterinary Medical Board
	Landscape Architectural Council
Department of Elementary and Secondary Education	Missouri School for the Deaf
	State Board of Education
	Missouri School for the Deaf Board of Advisors
Department of Health	Division of Environmental Health and Communicable Disease Prevention
	Division of Health Standards and Licensure
	Division of Maternal, Child and Family Health
	Division of Chronic Disease Prevention and Health Promotion
	Division of Administration
	State Board of Health
Department of Higher Education	Linn State Technical College
	Truman State University
	Central Missouri State University
	Southeast Missouri State University
	Southwest Missouri State University
	Missouri Southern State College

STATE AGENCY	AGENCY, BOARD OR COMMISSION
Department of Insurance	Division of Financial Regulation
	Division of Marketing Regulation
	Division of Consumer Affairs
	Division of Resource Administration
Department of Labor and Industrial Relations	Division of Labor Standards
	Division of Workers' Compensation
	Labor and Industrial Relations Commission
	Missouri Commission on Human Rights
Department of Mental Health	Division of Alcohol and Drug Abuse
	Division of Comprehensive Psychiatric Services
Department of Natural Resources	Division of Geology and Land Survey
	Division of Administrative Support
	Division of State Parks
	State Environmental Improvement and Energy Resources Authority
	Hazardous Waste Management Commission
	Safe Drinking Water Commission
	Soil and Water Districts Commission
	Clean Water Commission
	Dam and Reservoir Safety Council
Department of Public Safety	Missouri Division of Liquor Control
	Missouri State Water Patrol
	State Emergency Management Agency
	Boiler and Pressure Vessel Board
	Missouri Emergency Response Commission
	Missouri Seismic Safety Commission
	Missouri Veterans' Commission
Department of Revenue	State Lottery Commission
	State Tax Commission
Department of Social Services	Missouri Board of Nursing Home Administrators
Department of Transportation	Division of Audit and Business Analysis
	Division of Bridges

APPENDIX VI

STATE AGENCY	AGENCY, BOARD OR COMMISSION
	Division of Business and Benefits Support
	Division of General Services
	Division of Human Resources
	Division of Information Systems
	Division of Maintenance
	Division of Materials
	Division of Multimodal Operations
	Division of Preliminary Studies
	Division of Public Affairs
	Division of Research and Development and Technology
	Division of Right Away
	Division of Risk Management
	Division of Traffic
	Activities and Operations Division
	Transit Division
	State Highway and Transportation Commission

SCHEDULE OF ENTITIES WITH UNCLEAR POLICIES

The following entities had policies which were not clear:

STATE AGENCY	AGENCY, BOARD OR COMMISSION	
Office of Administration	Division of Accounting	
	Division of Budget and Planning	
	Office of Information Technology	
	Division of Design and Construction	
	Division of Facilities Management	
	Division of General Services	
	Division of Personnel	
	Division of Purchasing and Materials Management	
	Office of Information Technology	
	Administrative Hearing Commission	
	Children’s Trust Fund Board	
	Missouri Ethics Commission	
	Personnel Advisory Board	
	Department of Agriculture	Chief Accountant*
Missouri State Fair Commission		
State Milk Board		
Department of Conservation ¹	Internal Auditor*	
Department of Economic Development	Office of Athletics	
	Office Endowed Care Cemeteries	
	Missouri State Council on the Arts	
	Missouri Public Service Commission	
	Missouri State Board of Accountancy	
	Missouri Board for Architects, Professional Engineers, and Land Surveyors	
	State Board of Chiropractic Examiners	
	Committee for Professional Counselors	
	Board of Examiners for Hearing Instrument Specialists	
	Missouri Board of Occupational Therapy	
	State Committee of Psychologists	
	Missouri Real Estate Commission	

¹Includes response for Department of Conservation and Conservation Commission

* Responded on behalf of department.

STATE AGENCY	AGENCY, BOARD OR COMMISSION
	Missouri Real Estate Appraisers Commission
	Missouri Veterinary Medical Board
	Advisory Committee for Licensed Clinical Social Workers
	Landscape Architectural Council
	Missouri Board of Geologists Registration
	Missouri Board of Respiratory Care
	State Committee of Marital and Family Therapists
Department of Elementary and Secondary Education	Division of School Services
	Missouri School for the Blind
	Missouri School for the Deaf
	State Board of Education
	MO School for the Deaf Board of Advisors
	MO School for the Blind Board of Advisors
	Missouri Commission for the Deaf
Department of Health	General Counsel*
Department of Higher Education	Lincoln University
	Missouri Southern State College
Department of Insurance	Chief Accountant*
Department of Labor and Industrial Relations	Division of Workers' Compensation
	State Board of Mediation
Department of Mental Health	Legal Counsel*
Department of Natural Resources	Wells Installation Board
	Dam and Reservoir Safety Council
Department of Public Safety	Missouri Division of Fire Safety
	Missouri State Water Patrol
	Office of the Adjutant General
	State Emergency Management Agency
	Division of Gaming
	Missouri Emergency Response Commission
	Missouri Seismic Safety Commission
	Missouri Gaming Commission

APPENDIX VII

STATE AGENCY	AGENCY, BOARD OR COMMISSION
Department of Revenue	Legal Counsel/Litigation*
	Highway Reciprocity Commission

* Responded on behalf of department.

SCHEDULE OF ENTITIES WITHOUT A POLICY

The following entities did not have a policy:

STATE AGENCY	AGENCY, BOARD OR COMMISSION
Office of Administration	Office of Information Technology Board
	Board of Fund Commissioners
	Governor's Advisory Council on Physical Fitness and Health
	Missouri Commission on Intergovernmental Cooperation
	Missouri Head Injury Advisory Council
	Missouri State Employees' Deferred Compensation Commission
	Missouri State Employees' Voluntary Life Insurance Commission
Department of Corrections	Board of Probation and Parole
Department of Economic Development	Division of Motor Carrier & Railroad Safety
	Missouri Housing Development Commission
	State Board of Barber Examiners
	State Board of Cosmetology
	State Board of Embalmers and Funeral Directors
	State Board of Nursing
	State Board of Optometry
	State Board of Podiatric Medicine
Department of Health	State Board of Health
Department of Higher Education	State Historical Society of Missouri
	Kirkville College of Osteopathic Medicine
	Linn State Technical College
Department of Public Safety	Missouri Division of Liquor Control
	Missouri Veterans' Commission
Department of Revenue	State Tax Commission

**SCHEDULE OF ENTITIES WITH POLICIES THAT ARE NOT IN THE SPIRIT OF
THE LAW**

The following entities' policies were not in the spirit of the law:

STATE AGENCY	AGENCY, BOARD OR COMMISSION
Department of Economic Development	Missouri Development Finance Board
Department of Higher Education	Northwest Missouri State University
	Southwest Missouri State University

SCHEDULE OF ENTITIES WITH REASONABLE WRITTEN POLICIES

STATE AGENCY	AGENCY, BOARD OR COMMISSION
Office of Administration	Health and Educational Facilities Authority
	Jackson County Sports Complex Authority, Harry S. Truman Sports Complex
Department of Corrections	Division of Human Services
Department of Economic Development	Division of Job Development and Training
	Missouri Division of Tourism
	Division of Credit Unions
	Division of Finance
	Division of Professional Registration
	Minority Business Advocacy Commission
	Missouri Tourism Commission
	Missouri Community Service Commission
	Missouri State Savings and Loan Commission
	Missouri Women's Council
	Missouri Dental Board
	State Board of Registration for the Healing Arts
	State Board of Pharmacy
Department of Higher Education	Missouri Coordinating Board for Higher Education
	Truman State University
	Central Missouri State University
	Southeast Missouri State University
Department of Labor and Industrial Relations	Division of Employment Security
	Division of Labor Standards
	Labor and Industrial Relations Commission
	Missouri Commission on Human Rights
Department of Mental Health	Mental Health Commission
Department of Natural Resources	Office of the Director*
	Division of Administrative Support
	Division of Energy
	Division of Geology and Land Survey

*Responded on behalf of department.

APPENDIX X

STATE AGENCY	AGENCY, BOARD OR COMMISSION
	Division of State Parks
	State Environmental Improvement and Energy Resources Authority
	Air Conservation Commission
	Hazardous Waste Commission
	Land Reclamation Commission
	Safe Drinking Water Commission
	Soil and Water Districts Commission
	Clean Water Commission
	Solid Waste Management Program Advisory Board
Department of Public Safety	Missouri Capitol Police
	Missouri State Highway Patrol
	Boiler and Pressure Vessel Board
	Missouri Fire and Safety Advisory Board
Department of Revenue	State Lottery Commission
Department of Social Services	Governor's Advisory Council on Aging
	Missouri Board of Nursing Home Administrators
	Division of Youth Services Advisory Board
Department of Transportation	State Highway and Transportation Commission
	Kansas City Area Transportation Authority Board of Commissioners

JUSTIFICATION FOR FEES (Example 1)Documentation of Fees for Photocopies

<u># Copies</u>	<u>Costs</u>	<u>Amount</u>	<u>Total Cost</u>
5	Personnel Cost	\$7.20	
	Postage	\$0.50	
	Paper, Copy Machine	<u>\$0.25</u>	
10	Personnel Cost	\$7.20	
	Postage	\$0.75	
	Paper, Copy Machine	<u>\$0.50</u>	
20	Personnel Cost	\$7.20	
	Postage	\$1.50	
	Paper, Copy Machine	<u>\$1.00</u>	
40	Personnel Cost	\$7.20	
	Postage	\$3.00	
	Paper, Copy Machine	<u>\$2.00</u>	\$12.20
<hr/>			
75			\$38.30

Average Cost - .51 cents per page

Personnel Cost - Based on average of 30 minutes to process request
Dollar amount is based on avg. salary & fringe benefits

Paper/Copy Machine Cost - Estimated at .05 cents per page

Documentation of Fees for Official Documents

25	Personnel Cost	\$30.60	
	Postage	\$1.75	
	Paper, Copy Machine	<u>\$1.25</u>	\$33.60
50	Personnel Cost	\$30.60	
	Postage	\$4.00	
	Paper, Copy Machine	<u>\$2.50</u>	\$37.10
<hr/>			
75			\$70.70

Average Cost - .94 cents per page

Personnel Cost - Based on average of 90 minutes to process request
Dollar amount is salary and fringe benefits for Administrative Assistant

Research/Review Time - Salary, Fringe Benefits, and Overhead for
Administrative Assistant to perform research of official bank documents

JUSTIFICATION FOR FEES (Example 2)

Our policy for charging for providing copies of requested open records is as follows:

- (1) I assign staff to do the actual document search and provide me with the requested record.
- (2) I have the staff person provide me with the time it has taken them to provide the record and then I establish the cost for the document search based on the amount of staff time to procure the record times their hourly rate of pay.
- (3) I then provide the record to be copied to the receptionist. I figured the labor cost for our Receptionist to copy the file, the cost of the paper, and the cost per page for the copy machine usage. Labor cost is \$8.39 per hour and the Receptionist can copy about 300 pages in an hour. That is a cost of 2.8 cents per page for labor. The materials and equipment cost to duplicate a page is as follows: (A) A ream of paper cost \$2.01 and has 500 sheets, so that is a cost of \$0.004 per sheet. (B) The copy machine usage is based on the maintenance agreement, which equals \$0.0095 per copy. Therefore the actual cost for copying a page is 4.15 cents. This figure is rounded down to a per page cost of 4 cents.
- (4) I then add the actual cost for the document search and the cost for copying at a rate of 4 cents per page plus any postage cost to come up with the cost for the records requested. If the actual cost is \$5.00 or less the cost is waived. If it is greater than \$5.00 then the person requesting the record is charged the actual cost amount calculated for labor, material, and postage.
- (5) We provide the copies after we receive payment for them.